

May 11 2010

Ed Smith  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

(list name and address of Clerk of the District Court, each court reporter, and each attorney or party served).

Dated this 9<sup>th</sup> day of May, 2010.  
Jenni Per Brandon

Name

615 S. 16<sup>th</sup> ST #302 Bozeman, MT

Address

District Court Clerk

Title

Form 3

IN THE SUPREME COURT OF THE STATE OF MONTANA

Supreme Court Cause No. \_\_\_\_\_

Bryan Prather,

(designation of party),

MOTION AND AFFIDAVIT IN SUPPORT

v.

TO PROCEED ON APPEAL WITHOUT

PAYMENT OF FILING FEE

18<sup>th</sup> Judicial District.

(designation of party).

I move this Court to proceed without payment of the filing fee in this cause, and I submit this Affidavit in support of my motion.

I, Bryan Prather (state your name), being first duly sworn, depose and say that I am the Appellant (designation of party) in the above-entitled cause; that in support of my application to proceed on appeal without being required to pay the filing fee, I state that because of my financial condition I am unable to pay the filing fee; that I believe I am entitled to redress; and that the issues which I desire to present on appeal are the following:

False Information contained in Pre Sentence Report  
erroneous Habitual Traffic offender Convictions

I further swear that the responses which I have made to the questions and instructions below relating to my ability to pay the cost of prosecuting the appeal are true.

1. Are you presently employed? Yes

a. If the answer is yes, state the amount of your salary or wages per month and give the name and address of your employer. under \$50.00 Medical Department Crossroads Correctional

b. If the answer is no, state the date of your last employment and the amount of the salary and wages per month which you received. 11/15/2007 \$1500.00

2. Have you received within the past 12 months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, or other source? If the answer is yes, describe each source of income, and state the amount received from each during the past 12 months. NO

3. Do you own any cash or checking or savings account? If the answer is yes, state the total value of the items owned. NO

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? If the answer is yes, describe the property and state its approximate value. NO

5. List the persons who are dependent upon you for support and state your relationship to those persons. none

I understand that a false statement or answer to any question in this affidavit will subject me to penalties for perjury.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

\_\_\_\_\_  
Notary Public for the State of Montana

SEAL

Residing at \_\_\_\_\_

My Commission expires \_\_\_\_\_

Form 4

IN THE SUPREME COURT OF THE STATE OF MONTANA

Supreme Court Cause No. \_\_\_\_\_

Bryan Prather,  
Appellant,

v.

NOTICE REQUIRING FILING  
OF AMENDED NOTICE OF  
APPEAL OR CROSS-APPEAL

eighteenth Judicial District,  
Appellee.

NOTICE of X Appeal/Cross-Appeal \_\_\_\_\_ was filed on 5-9-May 9, 2010  
in that cause of action filed in the eighteenth Judicial District, in and for the County of  
Gallatin, as Cause No. \_\_\_\_\_. The notice does not contain the following required  
certification(s):

1. \_\_\_\_\_ That this matter \_\_\_\_\_ is/is not X subject to the mediation process required by  
M. R. App. P. 7. If subject to mediation, the money judgment being sought \_\_\_\_\_ is/is not \_\_\_\_\_  
less than \$5,000.

2. \_\_\_\_\_ That this matter X is/is not \_\_\_\_\_ an appeal from an order certified as final  
under M. R. Civ. P. 54(b). If this is such an appeal, a true copy of the District Court's  
certification order is attached to the notice of appeal/cross-appeal as Exhibit "A."

3. \_\_\_\_\_ That the notice required by M. R. App. P. 27 has been or will be given, within 11  
days of the date hereof, to the Supreme Court and to the Montana Attorney General with respect  
to a challenge to the constitutionality of any act of the Montana Legislature.

4. \_\_\_\_\_ That all available transcripts of the proceedings in this cause involving the  
issue(s) appealed \_\_\_\_\_ have been/have not been X ordered from the court reporter  
contemporaneously with the filing of this notice of appeal. If all available transcripts have not  
been ordered, that Appellant has complied with the provisions of M. R. App. P. 8(3)  
contemporaneously with the filing of this notice of appeal.

5. \_\_\_\_\_ That all available transcripts of the proceedings in this cause involving the  
issue(s) cross-appealed \_\_\_\_\_ have been/have not been X ordered from the court reporter  
contemporaneously with the filing of this notice of cross-appeal. If all available transcripts have  
not been ordered, that Cross-Appellant has complied with the provisions of M. R. App. P. 8(3)  
contemporaneously with the filing of this notice of cross-appeal.

6. \_\_\_\_\_ That a copy of the notice of X appeal/cross-appeal \_\_\_\_\_ has been  
contemporaneously filed in the office of the Clerk of the District Court and served by mail on all

FORM TO BE USED BY PRISONERS REQUESTING TO  
PROCEED WITHOUT PREPAYMENT OF COSTS  
(IN FORMA PAUPERIS)

NAME: Bryan Prather

PRISON NUMBER: 2025069

PLACE OF CONFINEMENT: CrossRoads Correctional, Shelby MT.

CRIMINAL CAUSE NUMBER: D.C. - 01-252

Bryan Prather,  
(List all Plaintiffs/Petitioners/Movants)

v.

State of Montana  
(List all Defendants/Respondents).

Instructions

1. Use this form if you are filing a legal document in state district court or the Montana Supreme Court and you cannot pay the filing fee. File this form when you file your legal pleading - not before.
2. ATTACH AN OFFICIAL COPY OF YOUR INMATE TRUST ACCOUNT STATEMENT TO THIS FORM.
3. You must tell the truth and sign the form. If you make a false statement of a material fact you may be prosecuted for perjury.
4. If you are allowed to proceed *in forma pauperis*, you may file your legal documents without prepayment of costs. It does not mean you are entitled to free transcripts or the appointment of counsel.



MOTION AND AFFIDAVIT TO PROCEED WITHOUT  
PREPAYMENT OF COSTS (IN FORMA PAUPERIS)

1. My name is Bryan Prather

I am the (check one) ☒ petitioner/plaintiff  
                                  ☐ defendant  
                                  ☐ other (explain) \_\_\_\_\_

2. In support of my request to proceed without prepayment of costs, I declare that I am unable to pay the costs of these proceedings and that I am entitled to relief in the action to which I am or will be a party.

3. In support of this motion, I answer the following questions under penalty of perjury.

4. Are you currently incarcerated? ☒ Yes    ☐ No

5. Are you currently employed?    ☒ Yes    ☐ No

a. If the answer is yes, state the amount of your salary or wages per month and give the name and address of your employer:

Cross Roads Correctional Center Medical Porter under \$50.00  
month 50 Cross Roads, Shelby MT 59474

b. If no, state the date of your last employment and the amount of salary or wages per month:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

6. In the past 12 months, have you received any money from any of the following sources?

a. business, profession or other self-employment	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
b. rent payments, interests or dividends	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
c. pensions, annuities or life insurance payments	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>



- d. disability or workers compensation payments Yes [ ] No ☒
- e. social security or retirement benefits Yes [ ] No ☒
- f. family or friends Yes [ ] No ☒
- g. gifts or inheritances Yes ☒ No [ ]
- h. any other sources (specify) \_\_\_\_\_ Yes [ ] No [ ]

If the answer to any of the above is yes, describe each source of money, state the amount received during the past 12 months, the frequency with which you receive it, and what you expect you will continue to receive:

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7. Do you have any cash, or any checking or savings accounts?

Yes [ ] No ☒

If yes, state the total value of the cash and/or accounts:

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8. Do you own any real estate, stocks, bonds, notes, automobiles or other valuable property (excluding ordinary household furnishings and clothing)?

Yes [ ] No ☒

If yes, describe the property and state its value: \_\_\_\_\_

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9. List the persons who are dependent on you for support and state your relationship to each person. Indicate how much you contribute to their support:

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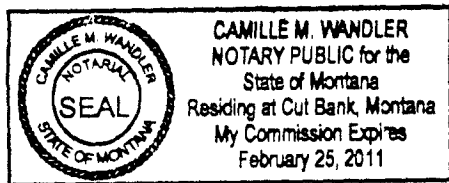


DATED this 29 day of April, 2010.

Bryan Prather  
Signature of Applicant (sign in presence of notary)

SUBSCRIBED and SWORN to before me this 29 day of April,

2010, by Bryan Prather (name of Applicant).



Camille M. Wandler  
Signature notary  
Camille M. Wandler  
Name - typed, stamped or printed  
Notary Public for the State of Montana  
Residing at Cut Bank MT  
My commission expires 2-25-2011

LET THE APPLICANT PROCEED WITHOUT PREPAYMENT OF COSTS.

\_\_\_\_\_  
(District Judge or Supreme Court)



## Crossroads Correctional Center

## Resident Activity Statement

Resident Name: PRATHER, BRYAN

Resident ID: 2025069

Housing Location: CCC,CCC,1,F,2,1

Date Range:

10/01/2009 Through 04/27/2010

## Beginning Account Balances:

## Ending Account Balances:

	Personal Balance	Non-Per Balance	Debt		Personal Balance	Non-Per Balance	Debt
Court_Fees	\$0.00	\$0.00	(\$274.17)	Court_Fees	\$0.00	\$0.00	(\$249.73)
Rstitution	\$0.00	\$0.00	(\$468.73)	Rstitution	\$0.00	\$0.00	(\$390.94)
Trust	\$5.03	\$0.00	\$0.00	Trust	\$1.61	\$0.00	\$0.00
<b>Begin Totals</b>	<b>\$5.03</b>	<b>\$0.00</b>	<b>(\$742.90)</b>	<b>End Totals</b>	<b>\$1.61</b>	<b>\$0.00</b>	<b>(\$640.67)</b>

Date	Amount	Type	Comment	Personal Bal Change	Personal Acct Balance	Non-Personal Change	Non-Personal Acct Bal	Debt Bal Change	Debt Balance
10/02/2009	(\$4.00)	Resident Withdrawal	Motor Vehicle Division	(\$4.00)	\$1.03	\$0.00	\$0.00	\$0.00	(\$742.90)
10/09/2009	(\$0.94)	Sale	Debit Sale	(\$0.94)	\$0.09	\$0.00	\$0.00	\$0.00	(\$742.90)
10/12/2009	\$51.70	Resident Deposit	Inmate Pay	\$39.63	\$39.72	\$12.07	\$12.07	\$12.07	(\$730.83)
10/14/2009	(\$3.45)	Group Withdrawal	CCC 10/14/09 Court Fees	\$0.00	\$39.72	(\$3.45)	\$8.62	\$0.00	(\$730.83)
10/14/2009	(\$8.62)	Group Withdrawal	CCC 10/14/09 Restitution	\$0.00	\$39.72	(\$8.62)	\$0.00	\$0.00	(\$730.83)
10/14/2009	(\$2.00)	Transfer Other Funds	Angel Tree	(\$2.00)	\$37.72	\$0.00	\$0.00	\$0.00	(\$730.83)
10/14/2009	(\$11.00)	Transfer Other Funds	Pizza Hut	(\$11.00)	\$26.72	\$0.00	\$0.00	\$0.00	(\$730.83)
10/16/2009	(\$10.92)	Sale	Debit Sale	(\$10.92)	\$15.80	\$0.00	\$0.00	\$0.00	(\$730.83)
10/23/2009	(\$6.33)	Sale	Debit Sale	(\$6.33)	\$9.47	\$0.00	\$0.00	\$0.00	(\$730.83)
10/28/2009	(\$3.00)	Transfer Other Funds	copy card	(\$3.00)	\$6.47	\$0.00	\$0.00	\$0.00	(\$730.83)
10/29/2009	(\$3.58)	Sale	Debit Sale	(\$3.58)	\$2.89	\$0.00	\$0.00	\$0.00	(\$730.83)
11/06/2009	(\$2.57)	Sale	Debit Sale	(\$2.57)	\$0.32	\$0.00	\$0.00	\$0.00	(\$730.83)
11/10/2009	\$51.70	Resident Deposit	Inmate Pay	\$39.63	\$39.95	\$12.07	\$12.07	\$12.07	(\$718.76)
11/12/2009	(\$3.45)	Group Withdrawal	CCC 11/12/09 Court Fees	\$0.00	\$39.95	(\$3.45)	\$8.62	\$0.00	(\$718.76)
11/12/2009	(\$8.62)	Group Withdrawal	CCC 11/12/09 Restitution	\$0.00	\$39.95	(\$8.62)	\$0.00	\$0.00	(\$718.76)
11/13/2009	(\$10.73)	Sale	Debit Sale	(\$10.73)	\$29.22	\$0.00	\$0.00	\$0.00	(\$718.76)
11/20/2009	(\$4.50)	Sale	Debit Sale	(\$4.50)	\$24.72	\$0.00	\$0.00	\$0.00	(\$718.76)
11/25/2009	(\$1.80)	Sale	Debit Sale	(\$1.80)	\$22.92	\$0.00	\$0.00	\$0.00	(\$718.76)



12/02/2009	\$100.00 Resident Deposit	Mel Prather	\$83.33	\$106.25	\$16.67	\$16.67	\$16.67	(\$702.09)	
12/02/2009	(\$1.39) Transfer Other Funds	postage 12/2/09	(\$1.39)	\$104.86	\$0.00	\$16.67	\$0.00	(\$702.09)	
12/02/2009	(\$5.00) Transfer Other Funds	copy card	(\$5.00)	\$99.86	\$0.00	\$16.67	\$0.00	(\$702.09)	
12/04/2009	(\$7.50) Sale	Debit Sale	(\$7.50)	\$92.36	\$0.00	\$16.67	\$0.00	(\$702.09)	
12/08/2009	(\$24.99) Resident Withdrawal	Eastman's	(\$24.99)	\$67.37	\$0.00	\$16.67	\$0.00	(\$702.09)	
12/08/2009	(\$5.95) Resident Withdrawal	American Magazine Service	(\$5.95)	\$61.42	\$0.00	\$16.67	\$0.00	(\$702.09)	
12/09/2009	\$49.35 Resident Deposit	Inmate Pay	\$37.83	\$99.25	\$11.52	\$28.19	\$11.52	(\$690.57)	
12/10/2009	(\$3.29) Group Withdrawal	CCC 12/10/09 Court Fees	\$0.00	\$99.25	(\$3.29)	\$24.90	\$0.00	(\$690.57)	
12/10/2009	(\$24.90) Group Withdrawal	CCC 12/10/09 Restitution	\$0.00	\$99.25	(\$24.90)	\$0.00	\$0.00	(\$690.57)	
12/11/2009	(\$2.34) Sale	Debit Sale	(\$2.34)	\$96.91	\$0.00	\$0.00	\$0.00	(\$690.57)	
12/18/2009	(\$3.12) Sale	Debit Sale	(\$3.12)	\$93.79	\$0.00	\$0.00	\$0.00	(\$690.57)	
12/19/2009	\$0.12 Sale	Credit Sale	\$0.12	\$93.91	\$0.00	\$0.00	\$0.00	(\$690.57)	
01/04/2010	(\$92.34) Resident Withdrawal	Leather Factory	(\$92.34)	\$1.57	\$0.00	\$0.00	\$0.00	(\$690.57)	
01/07/2010	\$92.34 Resident Withdrawal	Reverse per H/S Bishop- inmate request	\$92.34	\$93.91	\$0.00	\$0.00	\$0.00	(\$690.57)	
01/08/2010	(\$17.12) Sale	Debit Sale	(\$17.12)	\$76.79	\$0.00	\$0.00	\$0.00	(\$690.57)	
01/11/2010	\$54.05 Resident Deposit	Inmate Pay	\$41.44	\$118.23	\$12.61	\$12.61	\$12.61	(\$677.96)	
01/11/2010	(\$3.60) Group Withdrawal	CCC 1/11/10 Court Fees	\$0.00	\$118.23	(\$3.60)	\$9.01	\$0.00	(\$677.96)	
01/11/2010	(\$9.01) Group Withdrawal	CCC 1/11/10 Restitution	\$0.00	\$118.23	(\$9.01)	\$0.00	\$0.00	(\$677.96)	
01/13/2010	(\$5.00) Transfer Other Funds	copy card	(\$5.00)	\$113.23	\$0.00	\$0.00	\$0.00	(\$677.96)	
01/13/2010	(\$2.50) Transfer Other Funds	copy card	(\$2.50)	\$110.73	\$0.00	\$0.00	\$0.00	(\$677.96)	
01/15/2010	(\$21.58) Sale	Debit Sale	(\$21.58)	\$89.15	\$0.00	\$0.00	\$0.00	(\$677.96)	
01/22/2010	(\$16.17) Sale	Debit Sale	(\$16.17)	\$72.98	\$0.00	\$0.00	\$0.00	(\$677.96)	
01/22/2010	(\$1.90) Transfer Other Funds	postage 1/21/10	(\$1.90)	\$71.08	\$0.00	\$0.00	\$0.00	(\$677.96)	
01/22/2010	(\$5.19) Transfer Other Funds	postge 1/19/10	(\$5.19)	\$65.89	\$0.00	\$0.00	\$0.00	(\$677.96)	
01/28/2010	(\$8.84) Sale	Debit Sale	(\$8.84)	\$57.05	\$0.00	\$0.00	\$0.00	(\$677.96)	
01/28/2010	(\$20.00) Resident Withdrawal	The Wrangler	(\$20.00)	\$37.05	\$0.00	\$0.00	\$0.00	(\$677.96)	
01/28/2010	(\$24.85) Resident Withdrawal	American Magazine Service	(\$24.85)	\$12.20	\$0.00	\$0.00	\$0.00	(\$677.96)	
02/04/2010	(\$4.38) Sale	Debit Sale	(\$4.38)	\$7.82	\$0.00	\$0.00	\$0.00	(\$677.96)	
02/08/2010	(\$3.50) Transfer Other Funds	copy card	(\$3.50)	\$4.32	\$0.00	\$0.00	\$0.00	(\$677.96)	
02/10/2010	\$54.05 Resident Deposit	Inmate Pay	\$41.44	\$45.76	\$12.61	\$12.61	\$12.61	(\$665.35)	



02/10/2010	(\$5.00) Transfer Other Funds	copy card	(\$5.00)	\$40.76	\$0.00	\$12.61	\$0.00	(\$665.35)
02/11/2010	(\$3.60) Group Withdrawal	CCC 2/10/10 Court Fees	\$0.00	\$40.76	(\$3.60)	\$9.01	\$0.00	(\$665.35)
02/11/2010	(\$9.01) Group Withdrawal	CCC 2/10/10 Restitution	\$0.00	\$40.76	(\$9.01)	\$0.00	\$0.00	(\$665.35)
02/11/2010	(\$8.64) Sale	Debit Sale	(\$8.64)	\$32.12	\$0.00	\$0.00	\$0.00	(\$665.35)
02/18/2010	(\$9.60) Sale	Debit Sale	(\$9.60)	\$22.52	\$0.00	\$0.00	\$0.00	(\$665.35)
02/23/2010	(\$1.56) Transfer Other Funds	postage 2/19/10	(\$1.56)	\$20.96	\$0.00	\$0.00	\$0.00	(\$665.35)
02/24/2010	(\$7.44) Sale	Debit Sale	(\$7.44)	\$13.52	\$0.00	\$0.00	\$0.00	(\$665.35)
03/02/2010	(\$4.17) Transfer Other Funds		(\$4.17)	\$9.35	\$0.00	\$0.00	\$0.00	(\$665.35)
03/02/2010	\$4.17 Transfer Other Funds	reverse & repost	\$4.17	\$13.52	\$0.00	\$0.00	\$0.00	(\$665.35)
03/02/2010	(\$4.17) Transfer Other Funds	postage 2/23/10	(\$4.17)	\$9.35	\$0.00	\$0.00	\$0.00	(\$665.35)
03/02/2010	(\$0.49) Transfer Other Funds	postage 2/27/10	(\$0.49)	\$8.86	\$0.00	\$0.00	\$0.00	(\$665.35)
03/04/2010	(\$8.25) Sale	Debit Sale	(\$8.25)	\$0.61	\$0.00	\$0.00	\$0.00	(\$665.35)
03/11/2010	\$51.70 Resident Deposit	Inmate Pay	\$39.63	\$40.24	\$12.07	\$12.07	\$12.07	(\$653.28)
03/11/2010	(\$16.53) Sale	Debit Sale	(\$16.53)	\$23.71	\$0.00	\$12.07	\$0.00	(\$653.28)
03/17/2010	(\$3.45) Group Withdrawal	CCC 3/17/10 Court Fees	\$0.00	\$23.71	(\$3.45)	\$8.62	\$0.00	(\$653.28)
03/17/2010	(\$8.62) Group Withdrawal	CCC 3/17/10 Restitution	\$0.00	\$23.71	(\$8.62)	\$0.00	\$0.00	(\$653.28)
03/18/2010	(\$12.03) Sale	Debit Sale	(\$12.03)	\$11.68	\$0.00	\$0.00	\$0.00	(\$653.28)
03/18/2010	(\$6.80) Transfer Other Funds	postage 3/19/10	(\$6.80)	\$4.88	\$0.00	\$0.00	\$0.00	(\$653.28)
03/25/2010	(\$4.79) Sale	Debit Sale	(\$4.79)	\$0.09	\$0.00	\$0.00	\$0.00	(\$653.28)
04/09/2010	\$54.05 Resident Deposit	Inmate Pay	\$41.44	\$41.53	\$12.61	\$12.61	\$12.61	(\$640.67)
04/15/2010	(\$7.36) Sale	Debit Sale	(\$7.36)	\$34.17	\$0.00	\$12.61	\$0.00	(\$640.67)
04/16/2010	(\$24.99) Resident Withdrawal	Eastman Hunting Journal	(\$24.99)	\$9.18	\$0.00	\$12.61	\$0.00	(\$640.67)
04/19/2010	(\$3.60) Group Withdrawal	CCC 4/19/10 court fees	\$0.00	\$9.18	(\$3.60)	\$9.01	\$0.00	(\$640.67)
04/19/2010	(\$9.01) Group Withdrawal	CCC 4/19/10 Restitution	\$0.00	\$9.18	(\$9.01)	\$0.00	\$0.00	(\$640.67)
04/22/2010	(\$3.57) Sale	Debit Sale	(\$3.57)	\$5.61	\$0.00	\$0.00	\$0.00	(\$640.67)
04/23/2010	(\$4.00) Transfer Other Funds	copy card	(\$4.00)	\$1.61	\$0.00	\$0.00	\$0.00	(\$640.67)





I, BONNIE MECKLING, am the keeper of the accounting records for CCA-  
Crossroads Correctional Center. I hereby certify that the attached copy the account  
of BRYAN PRATHER AO# 2025069  
is true and accurate.

Signature of certified: Bonnie Meckling Date: 4-26-10

**Notary Public:**

State of Montana

County of Toole

Signed or attested before me on 4-26-10 by Bonnie Meckling

Signature of Notary Officer: Cecily Marie Simons

Commission Expires: 9/01/12

